

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ANTHONY BELFIORE, individually and on
behalf of all others similarly situated,

Plaintiff,

– against –

THE PROCTER & GAMBLE COMPANY,

Defendant.

Order

14-CV-4090

JACK B. WEINSTEIN, Senior United States District Judge:

The court has considered Plaintiff's motion to extend the certified class period and to broaden the class definition. *See* Notice Mot. Extend Certified Class Period & Amend Class Definition, ECF No. 307. The motion is denied without prejudice to its reconsideration when, and if, it is appropriate.

This litigation was remanded by the Court of Appeals for the Second Circuit for further consideration of specified issues relating to the court's March 27, 2017 decision to certify the class. *Kurtz v. Costco Wholesale Corp.*, 768 F. App'x 39 (2d Cir. 2019). Jurisdiction is expected to be restored to the Court of Appeals after this court has completed its consideration of those issues remanded for decision to this court. In remanding the cases, the Court of Appeals noted:

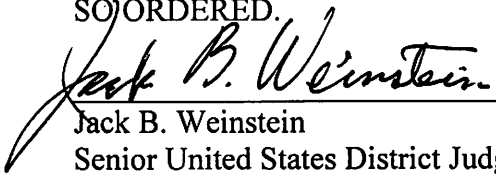
[it's] specific concern with the Plaintiffs' proof that they can establish the injury and causation elements of their claims at trial with common evidence. . . . On remand, the district court should offer the parties the opportunity to submit additional evidence and should then assess whether the Plaintiffs have 'affirmatively demonstrated [their] compliance' with Rule 23(b)(3)'s predominance requirement. . . . After further review of the record, the district court should choose whether to decertify the damages classes or maintain the current certification orders.

Id. at 41 (internal citation omitted).

The certification issues raised by Plaintiff exceed those covered in the remand order of the Court of Appeals. Considering them now would be impractical, burdensome, and contrary to the spirit of the limited mandate of the Court of Appeals. Plaintiff may renew his motion, if that is appropriate, following the conclusion of the appeal of the 2017 class certification decision of this court. *See Kurtz v. Kimberly-Clark Corp.*, 321 F.R.D. 482 (E.D.N.Y. 2017).

Since the motion is denied, Defendant's request to extend the briefing schedule is also denied as moot. *See* Letter from H. Weinberger, ECF No. 314; Letter from L. Levy, ECF No. 315.

SO ORDERED.



Jack B. Weinstein
Senior United States District Judge

Dated: August 27, 2019
Brooklyn, New York